

REMARKS

Reconsideration of the rejection of record is required in view of the amended Claims and remarks to follow.

Claim 1 is amended to indicate that component (c) is water; the phrase "the balance being water", is amended to avoid any inadvertent limitation of the claimed composition inconsistent with the open-ended description of the composition on line 1 which states "comprises".

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Oldenhove (U.S. 5,908,856). Oldenhove is said to meet the limitations of the Claims.

Applicant traverses the rejection under 35 U.S.C. 102 as being without proper support. To properly sustain a rejection under 35 U.S.C. 102, each and every limitation of the rejected Claims must be disclosed on the cited reference. But clearly the Oldenhove reference fails in this regard.

The present Claims 1 and 3 claim a composition containing, inter alia, an anionic biopolymer. But where is this described in Oldenhove? The Examiner seems to suggest that the biostatic agent of Oldenhove is the same component as the claimed anionic biopolymer. But this is incorrect.

Oldenhove describes the composition of the biostatic agent at Col. 5, beginning at line 56 of the reference patent. Applicants have defined the anionic biopolymer of the invention at page 13 of the specification, second paragraph, among other places. Anionic biopolymer refers to a glycoprotein, such as mucin. This has nothing in common with the defined biostatic agents of Oldenhove. In short, the rejection under 35 U.S.C. 102 is in error and must be withdrawn.

Claims 1 and 3 are also rejected under the doctrine of obviousness-type double patenting as being unpatentable over U.S. 6,479,044 and copending application No. 10/224,692.

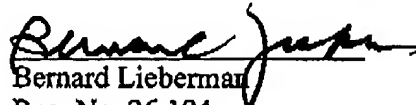
Applicant respectfully requests that a response to the rejections based on obviousness-type double patenting be deferred pending an indication of the allowability of Claim 1. At such time these rejections will be addressed by the applicant and it is believed will be overcome.

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. Claim 2 has been amended accordingly.

In view of the above, the pending claims are deemed to be patentable over the cited art of record, and an action indicating the allowability of all the claims is courteously requested.

Any fee due with this paper may be charged to Deposit Account No. 03-2455. Any overpayment may be credited to Deposit Account No. 03-2455.

Respectfully submitted,


Bernard Lieberman
Reg. No. 26,194

CUSTOMER NUMBER 23909
PHONE: (732) 878-7151
FAX: (732) 878-7660
DOCKET NO.: F1584-00